

GARVEY BALLOU

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^{*}MEMBER N.J. & D.C. BARS
^{**}MEMBER N.J. & N.Y. BARS

OUR FILE NO. 131.25613

July 9, 2021

Clerk of Court
United States District Court
Clarkson S. Fisher Building & U.S. Courthouse
402 East State Street
Trenton, NJ 08608

Re: Patrick Moran v. Costco Wholesale Corporation, Urban
Renewal, LLC
Docket No.: OCN-L-849-17

Dear Clerk:

Please be advised that the undersigned has been retained to represent the defendants, Costco Wholesale Corporation and Urban Renewal, LLC, in connection with the above referenced matter.

In that regard, enclosed herein you will find defendant's Notice of Removal.

If you have any questions, please do not hesitate to contact me.

Very truly yours,
/s/ Robert A. Ballou, Jr., Esq.
ROBERT A. BALLOU, JR
rballou@courthouselane.com

RAB:ch
Enclosure
cc: Hartigan/Deb - Gallagher Bassett (1) - 58155-GB-01
Glen Devora, Esq.

GARVEY, BALLOU

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PO Box 730
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(732) 341-1212

Attorneys for Defendants, Costco Wholesale Corporation, Costco Urban Renewal, LLC

Our File No. 131.25613- RAB/ch
Attorney ID#: 017381982

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

PATRICK MORAN

Plaintiff(s),

vs.

COSTCO WHOLESALE CORPORATION
AND/OR ABC COMPANIES 1-10
(BEING FICTITIOUS ENTITIES
UNKNOWN AT THIS TIME) COSTCO
URBAN RENEWAL, LLC, AND/OR
ABC COMPANIES 11-20 (BEING
FICTITIOUS ENTITIES UNKNOWN
AT THIS TIME) AND JOHN DOES
1-10 (BEING FICTITIOUS
PERSONS UNKNOWN AT THIS TIME)

Defendant(s)

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: OCEAN COUNTY
DOCKET NO. OCN-L-1594-21

Civil Action

NOTICE OF REMOVAL

Case No.

NOTICE OF REMOVAL

Notice of Removal of State Court Action to U.S. District Court

PLEASE TAKE NOTICE that defendant Costco Wholesale Corporation ("Costco"), through its undersigned counsel, hereby files this Amended Notice of Removal pursuant to 28 U.S.C. §1446. Costco hereby removes to the District Court of New Jersey all claims and causes of action in the civil action *Patrick Moran v. Costco Wholesale Corporation, et. al.*, Docket No. OCN-L-1594-21, now pending in the Superior Court of New Jersey, Law Division, Ocean County (the "State Court Action").

The grounds for removal are as follows:

28 U.S.C. § 1446

1. On June 17, 2021, plaintiff, residing in Barnegat, Ocean County, New Jersey, filed a Complaint in the Superior Court, Law Division, Ocean County against Costco Wholesale Corporation asserting a claim under State Law.

2. This Notice of Removal is filed in the United States District Court for the District of New Jersey, the District Court of the United States for the District and Division within which the State Action is pending. 28 U.S.C. § 1446(a); 1441(a).

3. This Notice of Removal is signed pursuant to Rule 11 of the Federal Rules of Civil Procedure. 28 U.S.C. § 1446(a).

4. Annexed hereto as **Exhibit "A"** is a copy of the Complaint and process served upon the defendant in the State Action. 28 U.S.C. § 1446(a).

5. The Complaint was filed on June 17, 2021, and served upon defendant.

6. As of this date, none of the defendants have filed a responsive pleading in the action commenced by plaintiff in the Superior Court of New Jersey, Law Division, Ocean County, and no other proceedings have transpired in that action.

7. The Complaint arises from the plaintiffs' contention that on July 10, 2020, while at a Costco Wholesale Store located at 245 Stafford Park Blvd., Stafford, New Jersey, he slipped and fell. He claims personal injuries as a result for which he seeks damages.

8. It is clear the amount in controversy will exceed \$75,000. In that regard, this factor for removal is based upon allegations in the Complaint as to the plaintiffs' injuries as noted above.

9. As of the filing of this Notice of Removal, the undersigned has no knowledge that any other defendant has been successfully served pursuant to 28 U.S.C. § 1446(b)(2)(A) and therefore cannot and need not obtain consent of the other named defendant.

10. This Notice is now filed with the Court on July 9, 2021, within thirty (30) days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, and within one (1) year of commencement of the State Action. 28 U.S.C. § 1446(b).

11. Annexed hereto as **Exhibit "B"** is the Notice to the Clerk of the Superior Court Ocean County of Removal of Action to the United States District Court with regard to the State Action, which will be filed with the Clerk upon return of this Notice of Removal stamped "received". 28 U.S.C. § 1446(d).

12. Annexed hereto as Exhibit "C" is the Notice to Adversary of Removal of Action, which will be served promptly upon return of this Notice of Removal stamped "received". 28 U.S.C. § 1446(d).

28 U.S.C. § 1441

13. This Notice of Removal is filed in the District of New Jersey, the District Court of the United States for the District and Division embracing the place where the State Action is pending. 28 U.S.C. § 1441(a); 1446(a).

14. The plaintiff is a citizen of the State of New Jersey, residing at 6 Liberty Court, Barnegat, New Jersey.

15. Defendant, Costco is a citizen of Washington where it was incorporated and where it has its principal place of business with corporate headquarters located at 999 Lake Dr., Issaquah, Washington 98027.

16. The State Action is a Civil Action of which District Courts of the United States have original jurisdiction by virtue of a claim where the matter in controversy exceeds the sum or value of Seventy-Five Thousand (\$75,000.00) Dollars, exclusive of interest and costs and is between citizens of different states. 28 U.S.C. § 1332(a).

17. Since our original filing, I have spoken with plaintiff's attorney, Glen Devora, Esq., of the Jonathan D'Agostino & Associates, PC, Law Firm following-up on my Request for Statement of Damages. He has advised that this case does have a value in excess of \$75,000.00. Based upon the foregoing, he was unable to stipulate plaintiff's damages in an amount below \$75,000.00.

WHEREFORE, please take notice that this cause should proceed in the United States District Court for the District of New Jersey, as an action properly removed thereto.

GARVEY BALLOU

BY: /s/ Robert A. Ballou, Jr.

ROBERT A. BALLOU, JR
Attorneys for Defendant
Costco Wholesale Corporation

Dated: July 9, 2021

EXHIBIT A

EXHIBIT B

GARVEY, BALLOU

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PO Box 730
Allenwood, NJ 08720
(732) 341-1212

Attorneys for Defendants, Costco Wholesale Corporation, Costco
Urban Renewal, LLC
Our File No. 131.25613- RAB/ch
Attorney ID#: 017381982

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

PATRICK MORAN

Plaintiff(s),
vs.

COSTCO WHOLESALE CORPORATION
AND/OR ABC COMPANIES 1-10
(BEING FICTITIOUS ENTITIES
UNKNOWN AT THIS TIME) COSTCO
URBAN RENEWAL, LLC, AND/OR
ABC COMPANIES 11-20 (BEING
FICTITIOUS ENTITIES UNKNOWN
AT THIS TIME) AND JOHN DOES
1-10 (BEING FICTITIOUS
PERSONS UNKNOWN AT THIS TIME)

Defendant(s)

TO: Ocean County Superior Court
Superior Court Ocean Vicinage
PO Box 2191
Toms River, NJ 08753-2191

Sir/Madam:

PLEASE TAKE NOTICE that attached hereto is a copy of a Notice of Removal of this case, which has been filed with the Clerk of the United States District Court for the District of New Jersey, removing this action to federal court.

GARVEY BALLOU

BY: /s/ Robert A. Ballou, Jr.

ROBERT A. BALLOU, JR
Attorneys for Defendant
Costco Wholesale Corporation

Dated: July 9, 2021

EXHIBIT C

GARVEY, BALLOU

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PO Box 730
Allenwood, NJ 08720
(732) 341-1212

Attorneys for Defendants, Costco Wholesale Corporation, Costco
Urban Renewal, LLC
Our File No. 131.25613- RAB/ch
Attorney ID#: 017381982

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

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FICTITIOUS ENTITIES UNKNOWN
AT THIS TIME) AND JOHN DOES
1-10 (BEING FICTITIOUS
PERSONS UNKNOWN AT THIS TIME)

Defendant(s)

TO: Glen Devora, Esq.
Jonathan D'Agostino & Associates, PC
3309 Richmond Avenue
Staten Island, NY 10312
Attorney for Plaintiffs

Sir/Madam:

PLEASE TAKE NOTICE that in the above-entitled action, defendant, Costco Wholesale Corporation, have this day filed a Notice of Removal, a copy of which is attached hereto, in the Office of the Clerk of the United States District Court for the District of New Jersey. You are also advised that the defendant, upon filing of said Notice of Removal, filed a copy of the Notice with the Clerk of the Superior Court of New Jersey, Law Division, Ocean County, which has effected this removal, in accordance with 28 U.S.C. § 1446 (B).

GARVEY BALLOU

BY: /s/ Robert A. Ballou, Jr.

ROBERT A. BALLOU, JR
Attorneys for Defendant
Costco Wholesale Corporation

DATED: July 9, 2021